

Government of Alberta

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October 1, 2012

Mr. Charles Rusnell
CBC Edmonton
P.O. Box 555
Edmonton, Alberta
T5J 2Y8

Fax: (780) 468-7419

Access Request: 2012-G-0024

Dear Mr. Rusnell:

**SUBJECT: *Freedom of Information and Protection of Privacy (FOIP) Act*
Fee Waiver Request for access request related to electricity deregulation**

I am writing in response to your request for waiver of fees received by the Freedom of Information and Protection of Privacy Unit, Department of Energy (DoE), on September 4, 2012.

First, the fee estimate provided to you on August 17, 2012, was based on the response from our program areas that there would be approximately 750 records. However, there was quite a discrepancy between the estimated volume and the actual submission as we received over 2000 records to process. Although an estimate is not precise, it is intended to be somewhat reflective of the cost. This unusual discrepancy between the estimate and the actual would have resulted in additional costs in excess of \$900 to the total fee amount. However, in fairness to you, Mr. Jim Ellis, Deputy Minister, Department of Energy, has made the decision to waive the costs to process the additional records.

With regards to your fee waiver request, DoE has given careful consideration of the information you provided in response to the principles and criteria outlined by the Information and Privacy Commissioner in Order No. 96-002 and updated by Gauk in Order F2006-032. After taking into account all the circumstances related to your particular request, DoE has decided against waiving fees in the amount of \$1602.63. It is DoE's position that there is insufficient evidence to support public interest in the records you have requested. This decision was made by the Deputy Minister of the Department of Energy.

In Order F2006-032, Adjudicator Gauk acknowledges that:

The public may not be concerned about a matter because it isn't aware a problem exists, even in situations where it does exist. Public concern may arise only when the problem is brought to light, and a requestor's efforts to get information may be for the very purpose of bringing that matter to light. However, in my view, before public funds are expended in order to shed this light, there must be convincing evidence or a convincing argument that a hidden problem exists or likely exists.

It was determined that although electricity deregulation is a common issue in public and political debate, there is no evidence that the government thought process on the introduction of electricity deregulation over 10 years ago is currently of public interest. Among the factors considered in coming to the decision was based on metrics obtained from the Utilities Consumer Advocate. It was discovered that consumers are looking for advice and making general inquiries on the electricity market; about a dozen calls even resulted in the UCA providing mediation for consumers. However, there were no indicators that the consumers wanted to know specifically why regulation was introduced in the province. Another one of the considerations was the lack of current articles found when performing an online search of electricity deregulation in Alberta. Search results included a mix of articles including news postings, blogs and commentaries. However, many of the articles are more than 5 years old and the articles revolve around the current issues with deregulation and how the province should move forward. Since 2000, there have been only three requests submitted to the GoA that relate to electricity deregulation and none in the last five years.

Fees exist to allow public bodies to require applicants to bear *only a portion* of the cost of providing information. The FOIP Act does not differentiate one applicant from another in a typical access request. If a member of the general public submitted the same request, that individual would go through the same process in requesting a fee waiver as any member of any other organization regardless of industry. Every applicant is expected to follow process and demonstrate the threshold of public interest has been met.

As you submitted your fee estimate deposit on August 28, 2012, we will continue to process your request. The balance of any fee owing is payable at the time the records are ready for delivery. I will notify you once the records have been processed, and inform you of the balance owing.

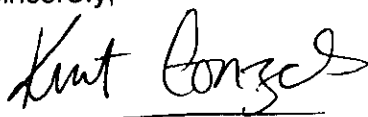
Under Section 65 of the Act, you have the right to ask the Information and Privacy Commissioner to review this fee waiver decision. You have 60 days from the receipt of this notice to request a review by completing a *Request for Review* form and submitting it to:

Information and Privacy Commissioner
410, 9925 - 109 Street
Edmonton, Alberta, T5K 2J8
Telephone (780) 422-6860
Fax (780) 422-5682

The form is available under the Resources tab on the Commissioner's website www.oipc.ab.ca or you can call 1-888-878-4044 to request a copy of the form.

If you have any questions or concerns, please write or call me at (780) 643-1574.

Sincerely,



Kurt Gonzales
FOIP Advisor